

DEPARTMENT OF THE PROSECUTING ATTORNEY 207

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

TARYN CHRISTIAN,)	CIV. NO. 04-00743 DAE-LEK
)	
Plaintiff,	)	RESPONDENTS
	)	MOTION TO STRIKE
vs.	)	HEARSAY AND UNTIMELY
	)	DECLARATIONS AND
CLAYTON FRANK, Director,	)	AFFIDAVITS; MEMORANDUM
STATE OF HAWAII, DEPARTMENT	)	IS SUPPORT OF MOTION;
OF PUBLIC SAFETY, et al.	)	DECLARATION OF PETER
	)	A. HANANO; CERTIFICATE
Respondents.	)	OF SERVICE
)	
	)	NOTICE OF MOTION:
	)	Date: 8/13/08
	)	Time: 11:00 A.M.
	)	Judge: Honorable Leslie E.
	)	Kobayashi

**RESPONDENTS MOTION TO STRIKE HEARSAY
AND UNTIMELY DECLARATIONS AND AFFIDAVITS**

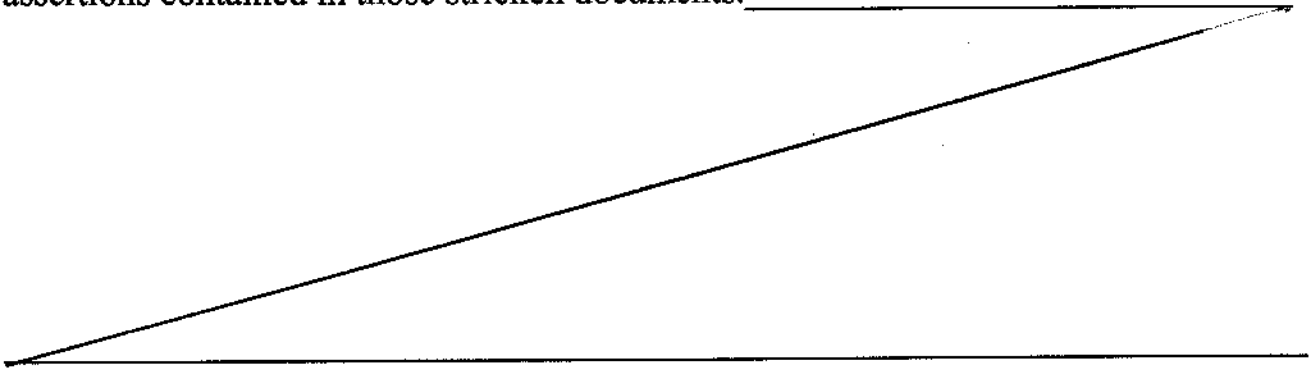
COME NOW, CLAYTON A. FRANK, Director, Department of Public Safety, State of Hawaii, (hereinafter "Respondents"), by and through their attorney, PETER A. HANANO, First Deputy Prosecuting Attorney for the County of Maui, and present this Respondents Motion to Strike Hearsay and Untimely Declarations and Affidavits, filed by Petitioner on July 18, 2008, and August 8, 2008. (See Docs. 121 and 128). Specifically, Respondents move this Honorable Court to strike the following:

- 1) All hearsay statements contained within **EXHIBIT D** of Petitioner's filing on July 18, 2008 (Doc. 121-5), including but not limited to all statements allegedly made by *Shawn Santana*;
- 2) All hearsay statements contained within **EXHIBIT E** of Petitioner's filing on July 18, 2008 (Doc. 121-6), including but not limited to all statements allegedly made by *Annie Leong*;
- 3) All statements contained within **EXHIBIT A** of Petitioner's filing on August 6, 2008 (Doc. 128-2), including but not limited to all statements allegedly made by *Rudy Cabanting*;
- 4) All hearsay statements contained within **EXHIBIT B** of Petitioner's filing on August 6, 2008 (Doc. 128-3), including but not limited to all statements allegedly made by *Chris Dias*;
- 5) All hearsay statements contained within **EXHIBIT C** of Petitioner's filing on August 6, 2008 (Doc. 128-4), including but not limited to all statements allegedly made by *Annie Leong*;
- 6) All hearsay statements contained within **EXHIBIT D** of Petitioner's filing on August 6, 2008 (Doc. 128-5), including but

not limited to all statements allegedly made by *Helen Beatty Auwelo*;

- 7) All hearsay statements contained within **EXHIBIT E** of Petitioner's filing on August 6, 2008 (Doc. 128-6), including but not limited to all statements allegedly made by *Helen Beatty Auwelo*;
- 8) All hearsay statements contained within **EXHIBIT F** of Petitioner's filing on August 6, 2008 (Doc. 128-7), including but not limited to all statements allegedly made by *Helen Beatty Auwelo*;
- 9) All hearsay statements contained within **EXHIBIT G** of Petitioner's filing on August 6, 2008 (Doc. 128-8), including but not limited to all statements allegedly made by *Joy Gaston*;
- 10) All hearsay statements contained within **EXHIBIT H** of Petitioner's filing on August 6, 2008 (Doc. 128-9), including but not limited to all statements allegedly made by *Joy Gaston*;


THEREFORE, Respondents respectfully request that this Court grant the instant Motion and enter an order striking all affidavits and/or declarations from the record as requested herein, preclude Petitioner from relying upon those factual allegations contained therein, and that the Court not consider any of the factual assertions contained in those stricken documents.



This Motion is made pursuant to the Local Rules of Practice for the United States District Court for the District of Hawaii, LR7.1 through 7.5, and is also based upon the Memorandum in Support of Motion, the Declaration of Peter A. Hanano, and the record and files in the above-entitled matter.

DATED: Wailuku, Hawaii, August 8, 2008.

Respectfully submitted,
DEPARTMENT OF THE PROSECUTING ATTORNEY
BENJAMIN M. ACOB,
PROSECUTING ATTORNEY

By 
PETER A. HANANO
First Deputy Prosecuting Attorney
County of Maui
Attorney for Respondents